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10/642,506	08/18/2003	Christian Sebastian Seifert	1509-441	1691

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EXAMINER

LONG, ANDREA NATAE

ART UNIT	PAPER NUMBER
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2176

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05/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/642,506	Applicant(s) SEIFERT, CHRISTIAN SEBASTIAN	
	Examiner Andrea N. Long	Art Unit 2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-24 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's Response

1. Claims 1-2, 4, 6-7, 12, and 17-22 have been amended. Claims 23-24 have been added. The Abstract has been revised to be compliant with accepted US patent practice. Claims 19-20 have been amended to overcome the rejection under 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. *ud*
5/11/07
1-5, 6, 8-22
Claims ~~1-5 and 7-24~~ are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenberg et al. (US Patent 6,128,006).

As to dependent claim 1, Rosenberg teaches a graphical user computer interface wherein said pointing device comprises a two-dimension actuator (Fig 1 reference character 12, column 6 lines 17-22), and a one-dimension actuator (Fig 1 reference character 16, column 4 lines 43-64),

the interface is arranged such that the two-dimension actuator controls movements of the pointer when said menu is not opened (column 16 lines 54-57) , and

the one-dimension actuator is activated, when the menu is opened, to control movement of the menu item focus within the menu (column 17 lines 32-38).

As to dependent claim 2, Rosenberg teaches a graphical user interface having a one and two dimension actuator. While Rosenberg does not explicitly teach while the menu is being opened, none of the two-dimension actuator and one-dimension actuator control movements of the pointer, it is reasonable for one skilled in the art to conclude that there is at least a fraction of time delay that occurs while the menu is opened for switching from a two-dimension to a one-dimension actuator, in which will neither actuator has control over the movement of the pointer.

As to dependent claim 3, Rosenberg teaches that the menu is opened by positioning the pointer on a displayed element, associated with the menu, with clicking on the element (column 4 lines 40-41, column 17 lines 30-32).

As to dependent claim 4, Rosenberg teaches wherein the menu item is activated by positioning the focus thereon, with clicking on the menu item (column 5 lines 8-11, column 17 lines 32-38).

As to dependent claim 5, Rosenberg teaches an operational shift from a pointer modus to a menu item focus modus is activated automatically upon opening of the menu (column 17 lines 30-38→ Rosenberg discloses a pointer being operated by a mouse can be automatically

disable once the menu has been opened then an item selection bar can be utilized for selecting a menu item).

As to dependent claim 8, Rosenberg teaches that an operation modus shifts from a menu item focus modus back to a pointer modus upon closing of the menu. It is inherent that upon closing of the menu would eliminate the highlighter/menu item selection bar, which the mouse that controls the movement of the pointer would be enabled.

As to dependent claim 9, Rosenberg teaches wherein the one-dimension actuator is a wheel (column 17 lines 32-34).

As to independent claim 10, Rosenberg teaches graphical user computer interface enabling a user to open at least one menu (Fig. 9, column 17 lines 30-32) and to select an item of the menu by means of a pointing device (column 17 lines 32-36), said pointing device controlling a moveable pointer (cursor, column 16 lines 54-57) and a moveable menu item focus (column 17 lines 36-38),

wherein the interface is arranged such that, after the menu has been opened, the pointer stays at the position it was in when the menu was opened, while the menu item focus is moveable within the menu by means of the pointing device without moving the pointer (column 17 lines 30-38).

As to claim dependent 11, Rosenberg teaches that the menu is opened by positioning the pointer on a displayed element, associated with the menu, with clicking on the element (column 4 lines 40-41, column 17 lines 30-32).

As to dependent claim 12, Rosenberg teaches that the menu item is activated by positioning the focus thereon, with clicking on the menu item (column 5 lines 8-11, column 17 lines 32-38).

As to dependent claim 13, Rosenberg teaches that an operational shift from a pointer modus to a menu item focus modus is activated automatically upon opening of the menu (column 17 lines 30-38→ Rosenberg discloses a pointer being operated by a mouse can be automatically disable once the menu has been opened then an item selection bar can be utilized for selecting a menu item).

As to dependent claim 14, Rosenberg teaches that the menu item focus is movable while the menu is fixed, by operating the pointing device (Fig 9, column 17 lines 30-38).

As to dependent claim 15, Rosenberg teaches that the menu is closed by a relative movement of the menu item focus out of the menu, by operating the two-dimension actuator, or by selecting a menu closing item with the two-dimension actuator. As discussed above Rosenberg allows the one or two dimension actuator to select a menu item. It's inherent if the menu item correlates to an exit as displayed in Fig 9 or close menu item the menu would close).

As to dependent claim 16, Rosenberg teaches wherein the pointing device is a computer-mouse (column 6 lines 17-20).

As to dependent claim 17, Rosenberg teaches wherein said pointing device comprises a two-dimension actuator (mouse) and a one-dimension actuator (wheel),

the interface is arranged such that the two-dimension actuator controls movements of the pointer when said menu is not opened (column 16 lines 54-57), and

the one-dimension actuator is activated, when the menu is opened, to control movement of the menu item focus within the menu (column 17 lines 32-38).

As to independent claim 18, Rosenberg teaches a computer (Fig. 1 reference character 18) comprising a display (Fig 1 reference character 20) and a pointing device (Fig 1 reference character 12), wherein said computer is programmed to provide a graphical user interface enabling a user to open at least one menu in the display (Fig. 9, column 17 lines 30-32) and to select an item of the menu by means of the pointing device (column 17 lines 32-36),

the pointing device controls a moveable pointer (cursor, column 16 lines 54-57) and a moveable menu item focus (column 17 lines 36-38), and

after the menu has been opened and while the menu is being opened, the pointer stays at the position the pointer was in when the menu was opened, while the menu item focus is moveable within the menu by means of the pointing device without moving the pointer (column 17 lines 30-38).

As to dependent claim 19, Rosenberg teaches wherein said pointing device comprises a two-dimension actuator (Fig 1 reference character 12, column 6 lines 17-22), and a one-dimension actuator (Fig 1 reference character 16, column 4 lines 43-64),

the interface is arranged such that the two-dimension actuator controls movements of the pointer when said menu is not opened (column 16 lines 54-57) , and

the one-dimension actuator is activated, when the menu is opened, to control movement of the menu item focus within the menu (column 17 lines 32-38).

As to independent claim 20, a computer-readable medium containing thereon programming code which, when executed on a computer system, is arranged

to enable a user to open at least one menu in a display of said computer system and to select an item of the menu by means of a pointing device of said computer system (Figs. 4 and 9, column 17 lines 30-36),

to enable said pointing device to control a moveable pointer and a moveable menu item focus (column 16 lines 54-57, column 17 lines 36-38), and

after the menu has been opened and while the menu is being opened, to keep the pointer stationary, regardless of operation of the pointing device, at the position said pointer was in when the menu was opened, while enabling the menu item focus to be moveable within the menu by means of the pointing device without moving the pointer (column 17 lines 30-38).

As to independent claim 21, Rosenberg teaches a method for enabling a user of a graphical user computer interface to open at least one menu and to select an item of the menu by means of a pointing device (Figs. 4 and 9, column 17 lines 30-36), said pointing device having a two-dimension actuator (mouse) and a one-dimension actuator (wheel) and controlling a moveable pointer and a moveable menu item focus, said method comprising;

when the menu is not opened, controlling movements of the pointer with the two-dimension actuator (column 16 lines 54-57), and

when the menu is opened, activating the one-dimension actuator to control movement of the menu item focus within the menu, while enabling the two-dimensional actuator to control movements of both the menu item focus and the pointer within the menu (column 19 line 45 through column 20 line 23).

As to independent claim 22, claim 22 incorporates substantially similar subject matter as claim 10 and is rejected under the same rationale.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 7, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg.**

As to dependent claim 7, Rosenberg teaches that the menu is closed by selecting a menu closing item with the one-dimension actuator or the two-dimension actuator. (Fig. 9)

Rosenberg does not teach that the menu is closed by a relative movement of the menu item focus out of the menu. It is reasonably suggestive for one skilled in the art, for a user to use a scroll wheel to scroll through menu items and if a user scrolls past the last menu item, then the menu will close, such as that of using a mouse pointer, that will close a menu when the pointer is out of the menu area. The motivation of having a scroll wheel that will close a menu by a relative movement of the wheel is to eliminate additional input actions by the user.

As to dependent claim 23, Rosenberg teaches that the menu is closed by selecting a menu closing item within the menu with the one-dimension or two-dimension actuator. As discussed above Rosenberg allows the one or two dimension actuator to select a menu item. Fig. 9 displays an “exit” menu item in the menu, which will cause the user to exit the system, which ultimately closes the menu. It would be reasonably suggestive to one skilled in the art to

have a menu with a “close” menu item for selection that would close the menu such as that of pop-up or boxed menus, for quick closing of a menu.

As to dependent claim 24, Rosenberg teaches that the menu is closed by selecting a menu closing item within the menu with the one-dimension or two-dimension actuator. As discussed above Rosenberg allows the one or two dimension actuator to select a menu item. Fig. 9 displays an “exit” menu item in the menu, which will cause the user to exit the system, which ultimately closes the menu. It would be reasonably suggestive to one skilled in the art to have a menu with a “close” menu item for selection that would close the menu such as that of pop-up or boxed menus, which are selectable by a mouse pointer, due to the lack of a wheel to move in any other direction other than up and down, for quick closing of a menu.

Allowable Subject Matter

6. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 03/07/2007 have been fully considered but they are not persuasive.

In regard to independent claims 10, 18, 20, and 22, Applicant asserts that Rosenberg does not teach or disclose each and every element of the claim, namely, "the menu item focus is moveable within the means by means of the pointing device with moving the pointer."

Applicant references an embodiment of Rosenberg invention which states $Y_{\text{cursor}} = Y_{\text{mouse}} + Y_{\text{wheel}}$, which implies that the manipulation of the wheel to move the highlighter up or down will move the cursor.

While, one embodiment of the mouse wheel might disclose that the mouse wheel works in connection with the cursor, it does not eliminate the alternative function of the mouse wheel to only control the highlighter, without moving the pointer. To clarify the function of the wheel reference column 7 lines 52-54 of Rosenberg, wherein he teaches the function controlled by the wheel can independent of the function controlled by the planar movements of the mouse, and in column 17 lines 35-38 which state that the vertical motion of the mouse can be disabled for use of the wheel to move a highlighter up and down the menu. It is reasonable for one skilled in the art to see that the movement of the wheel can be isolated from the movement of the mouse, since the vertical movement of the mouse is disabled and the wheel can only move in an up or down direction.

In regards to dependent claim 2, Applicant asserts that Rosenberg fails to teach or suggest that when a menu is being opened, that neither of the actuators can control movements of the pointer.

As discussed above the one-dimension and two-dimension actuator can operate independently from one another. It is further reasonable for one skilled in the art to conclude that there is at least a fraction of time delay that occurs while the menu is opened for switching from a two-dimension to a one-dimension actuator, in which will neither actuator has control over the movement of the pointer.

In regards to independent claim 21, Applicant asserts Rosenberg does not disclose or suggest that the highlight is controllable by the mouse or that the cursor is controllable by them mouse within the menu.

Rosenberg teaches in one embodiment of his invention that the functions of the wheel and the mouse can be synchronized (column 7 lines 54-27) and in column 17 lines 31-34, Rosenberg further states that the mouse can control the cursor for selection of a menu item. In addition column 19 lines 45 through column 20 line 24 disclose the coupling of the mouse and wheel, which can manipulate the cursor, which would include the manipulation and movement of the highlighter.

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8. Applicant's arguments with respect to claim 7, 23, and 24 have been considered but are moot in view of the new ground(s) of rejection, as necessitated by the amendment.

In regards to dependent claim 7, Applicant asserts Rosenberg fails to teach or suggest that the menu is closed by a relative movement of the menu item focus out of the menu.

It is reasonably suggestive for one skilled in the art for a user to use a scroll wheel to scroll through menu items and if a user scrolls past the last menu item or overshoots a menu item, then the menu will close, such as that of using a mouse pointer, that will close a menu when the pointer is out of the menu area, to eliminate additional input by the user.

In regards to dependent claim 23, Applicant asserts that Rosenberg fails to teach or suggest that said menu closing item, when selected, only causes closing of said menu.

As discussed above Rosenberg allows the one or two dimension actuator to select a menu item. Fig. 9 displays an "exit" menu item in the menu, which will cause the user to exit the system, which ultimately closes the menu. It would be reasonably suggestive to one skilled in the art to have a menu with a "close" menu item for selection that would close the menu such as that of pop-up or boxed menus, for quick closing of a menu.

In regard to dependent claim 24, Applicant asserts that Rosenberg does not teach or suggest that the menu closing item is positioned within the menu at a place unreachable by the one-dimension actuator.

As discussed above Rosenberg allows the one or two dimension actuator to select a menu item. Fig. 9 displays an "exit" menu item in the menu, which will cause the user to exit the system that ultimately closes the menu. It would be reasonably suggestive to one skilled in the art to have a menu with a "close" menu item for selection that would close the menu such as that of pop-up or boxed menus, which are selectable by a mouse pointer, due to the lack of a wheel to move in any other direction other than up and down, for quick closing of a menu.

9. Applicant's arguments, see page 12, 3rd paragraph, filed 03/07/2007, with respect to claim 6 have been fully considered and are persuasive. The rejection of claim 6 has been withdrawn. However, the claim is objected to as being dependent upon a rejected base claim.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea N. Long whose telephone number is 571-270-1055. The examiner can normally be reached on Mon - Thurs 6:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andrea Long
05/10/2007

William L Bashore
WILLIAM BASHORE
PRIMARY EXAMINER